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E.O. 12958: DECL: 07/09/2019
TAGS: [PGOV](#) [PINR](#) [PREL](#) [PTER](#) [KDRG](#) [KU](#)
SUBJECT: SPECIAL ENVOY FRIED MEETING WITH KUWAITI AMBASSADOR

CLASSIFIED BY S/E DANIEL FRIED. REASONS 1.4 (B)& (D).

REF: KUWAIT 613

¶1. SUMMARY: In a July 9 meeting, S/E for the Closing of Guantanamo Detention Facility Daniel Fried told Kuwaiti Ambassador Sabah that the U.S. has deep security concerns regarding the return of Kuwaiti detainees, stemming from the 2008 suicide bombing in Mosul, Iraq carried out by former Kuwaiti detainee Abdullah al-Ajmi. Understanding the importance of the issue to the GOK, particularly on the eve of the Amir's August 3 visit, Fried expressed satisfaction with the establishment of the rehabilitation center, but noted that it is yet untested and an additional (and very real) issue is effective GOK security monitoring and travel restrictions imposed on the detainees. Acknowledging that two of the four Kuwaitis are under consideration for USG prosecution, Sabah stressed the high priority the GOK placed on the return of the other two. He understood USG reservations, but noted that despite the fact that the GOK had done all the U.S. had asked (provided guarantees, established a rehabilitation center) it did not appear to be enough, and asked what more the GOK needed to do.

¶2. (S/NF) Fried requested information regarding al-Ajmi's actions leading up to his travel to Iraq, including an assessment of "what went wrong." On monitoring and travel restrictions, Fried raised the idea of an arrangement between the detainees' counsel and the GOK in which the detainee voluntarily agrees to not seek a passport for a period of time and agrees to monitoring, asking whether such an arrangement would be enforceable under Kuwait law. Sabah said he would seek answers to queries on monitoring, travel restrictions, and enforceability of a detainee counsel-GOK arrangement. Both agreed to a follow-up meeting the week of July 19, as Sabah would not be available next week, when the Amir arrives at his home in New Jersey.
END SUMMARY.

¶3. (S/NF) Special Envoy for the Closing of the Guantanamo Bay Detention Facility Daniel Fried met with Kuwaiti Ambassador Sheikh Salem al-Sabah on July 9 at the latter's request to discuss the release of the four remaining Kuwaiti detainees at GTMO. In opening, Ambassador Sabah underscored the high priority of this issue to the GOK. Noting that in previous USG-GOK meetings, the USG told the GOK that it needed to establish a rehabilitation center. Ambassador Sabah said he was happy to report that the rehabilitation center is "complete," adding that Ambassador Jones had recently toured the facility (reftel). He hoped that this rehabilitation center fulfilled USG requirement as a prerequisite to effect the return of the detainees. He understood that two are under consideration for USG prosecution, but Kuwait would be grateful for the return of the other two.

¶4. (S/NF) Sabah said that the return of the detainees will be the number one issue the Amir of Kuwait will raise with President Obama when they meet on August 3. Sabah said he hoped that it would be possible to gain custody of the detainees either before, during, or shortly after the visit.

¶5. (S/NF) Ambassador Fried thanked Ambassador Sabah for his presentation of the issue and straightforward request for the return

of the detainees. Acknowledging the establishment of the rehabilitation center, Fried said that a number of troubling issues remained, foremost being the April 2008 suicide bombing carried out by former Kuwaiti GTMO detainee Abdullah al-Ajmi in Mosul, Iraq. The incident was a terrible example of a serious security failure somewhere in the GOK.

¶6. (S/NF) Referring to the November 2007 GOK response to DOD questions on security measures for returned detainees, Fried noted the comprehensive response was made six months before the suicide bombing. The rehabilitation center is new and untested, he said, but the real issue is what happens after the detainees leave the center and what steps need to be taken to prevent another suicide bombing. That would be devastating, said Fried. The interagency is deliberating this issue, but has not reached a firm conclusion.

¶7. (S/NF) Sabah said the GOK was shocked and devastated by the suicide bombing. It could have been carried out in Kuwait, making al-Ajmi a threat to Kuwait as well. The GOK has no excuses for the actions of al-Ajmi, but Kuwait is a country of laws. The GOK could not hold al-Ajmi without grounds nor could it deny him a passport. When the eight detainees were returned, they were incarcerated, interrogated, and then put on trial. The GOK had "nothing from DOD" to present in court, thus their cases were dismissed and they were released.

¶8. (S/NF) Reiterating that the USG requested the rehabilitation center, Sabah said the GOK made significant efforts to get the center established, noting resistance to the project. Sabah pledged the GOK will monitor the detainees, as well as hold their families responsible for their conduct. He said the families of the remaining four detainees already provided the GOK with signed pledges to that effect and the GOK had passed them on to DOD in late 2007 prior to the visit of President Bush to Kuwait in early 2008. S/GC deputy Ricci asked if the family pledges are enforceable in a Kuwaiti court. Sabah said Kuwait is a small community where everyone knows each other. People keep their word. Politely exasperated, Sabah noted that the GOK had given to DOD the guarantees it sought, as well as constructed the rehabilitation center DOD had requested. "Is there something else that the USG would like us to do?" he asked.

¶9. (S/NF) Fried asked Sabah if there are any provisions in Kuwaiti law that would permit the GOK to withhold a passport for a period of time. On monitoring, he queried Sabah on GOK capacity and resources it could devote to the task. Fried then raised the idea of an arrangement concluded between the detainees' counsel and the GOK with the USG acting as a disinterested party, in which the detainee would voluntarily agree to a travel restriction, as well as monitoring.

¶10. (S/NF) Sabah reiterated the enormous pressure on the GOK from the detainees' families, who have lawyers in Kuwait and in the U.S. Sabah pointed out that there was no rehabilitation center at the time of the previous detainees' return. He claimed that al-Ajmi was a peaceful person before his detention in Guantanamo. He said his American lawyer could attest to his mental deterioration over the course of his detention. Sabah underscored the GOK desire to bring "the boys" home. The other seven who returned, he said, are getting on with their lives and some had gotten married.

¶11. (S/NF) In response to Fried's query on how al-Ajmi made his way to Iraq, Sabah said he would obtain that information. Fried said it was important that this be investigated. President Obama has a responsibility for the security of the U.S. Kuwait is a friend, Fried said, and Sabah has made a serious request which will be deliberated. In the context of this serious request, is the GOK willing to consider any measure available and consistent with Kuwaiti law for monitoring post-release from the rehabilitation center. Returning to the idea of an arrangement through detainees' counsel on voluntary agreement to not seek a passport, S/GC deputy Ricci asked Sabah if such an agreement would be enforceable under Kuwaiti law.

¶12. (S/NF) "We're orbiting around monitoring and passports," Sabah said, noting that the GOK had established the rehabilitation center, but it was still insufficient for the USG to warrant return of the detainees. The suicide bombing had an impact on the return of the detainees, Fried reiterated. He advised Sabah that they would not be having this meeting if it weren't for the existence of the center. There is no counter terrorism legislation and there probably won't be

any. The center is untested and is not likely to be tested by August 13. Fried said that we must proceed forward carefully. He would discuss the issue with the interagency to convey that Kuwait is "serious."

13. (S/NF) Sabah said that the GOK has done all that the U.S. has asked but now more is required. It is frustrating for Kuwait. Fried said the center would be more of a plus for Kuwait if it were tested. "Give us the two and we'll test it," Sabah rejoined.

14. (S/NF) Fried said that both the U.S. and Kuwait will have to work intensely in the weeks ahead and deliberate within our respective governments. Sabah agreed that he would obtain answers to questions on monitoring, travel restrictions, and enforceability of GOK-detainee counsel arrangements. Fried invited Sabah to meet with him again next week to discuss follow-up and more ideas. Sabah agreed, but requested they meet the week of July 19, as the Amir is scheduled to arrive at his house in New Jersey next week. Fried agreed. Upon conclusion of the meeting, Sabah impressed again on Fried the importance of this matter to Kuwait.

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